

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



June 6, 1989

**ALL COUNTY LETTER NO. 89-50**

**TO:** All County Welfare Directors

**SUBJECT:** Implementation of the Stipulation and Order in the Simon v. McMahon Court Case

**REFERENCE:** ALL COUNTY INFORMATION NOTICE 1-84-85, ALL COUNTY LETTER 86-04,  
ALL COUNTY LETTER 89-37

The purpose of this letter is to inform you that on April 21, 1989, the Contra Costa Superior Court issued an order approving a stipulation in the Simon v. McMahon court case (copy attached). In accordance with the stipulation, the Simon lawsuit has been dismissed. The preliminary injunction prohibiting the Department from counting the income and/or property of a child when the family chooses to exclude the child from the assistance unit (AU) has been lifted. An AU may still choose to exclude a child(ren) from the AU but the child(ren)'s income and/or property will be counted.

The order also specifies that any benefits paid under the Simon preliminary injunction shall not be recoverable as overpayments.

It is the intention of the Department of Social Services (DSS) that the Simon stipulation and order are to be implemented in a manner that avoids the unnecessary disruption or termination of Aid to Families With Dependent Children (AFDC) benefits to recipients who remain eligible for continuing benefits.

**IMPLEMENTATION INSTRUCTIONS:**

All eligibility redeterminations and all appropriate actions must be completed by November 1, 1989. All cases must be discontinued from State-only Simon aid effective the last day of the payment month following timely notice, but no later than October 31, 1989.

**Eligibility Determination Process**

Before discontinuance, all Simon assistance units will be contacted regarding the completion of an eligibility redetermination process. This contact will include a Notice of Redetermination informing the Assistance Unit of the order and stipulation and providing a date and time for the redetermination interview. Counties should develop a process for scheduling redetermination appointments in a manner which minimizes the need for multiple trips to local offices for the purpose of filling out forms. Counties may choose to send out forms to the recipient prior to the redetermination interview. If an Assistance Unit fails to cooperate with the redetermination process, including failure to keep the redetermination interview, the AU will be sent a timely notice of discontinuance.

All cases which cooperate in the redetermination process will be reevaluated by considering:

- (1) The child's income and/or property previously excluded from grant computation and eligibility determination; and
- (2) The continuing eligibility of the AU for Federal AFDC Family Group/Unemployed (FG/U) or time limited State-only AFDC-U.

The effects of continuing to exclude the child should be discussed with the recipient in accordance with EAS Section 44-205.51.

For AFDC-U cases, Federal AFDC-U eligibility must be reevaluated through a redetermination process to reestablish a connection with the labor force. Those AUs which are determined to be ineligible for Federal AFDC-U due to loss of labor force connection must be evaluated for time-limited State-only AFDC-U eligibility.

For the purpose of securing Federal Financial Participation, AUs will be required to complete a new:

- CA 1
- CA 2 (including all family members in the assistance unit.)
- CA 2.1 (for all children required to be included in accordance with EAS Section 43-201.)

If the household decides to include the child in the AU, a separate form to add the child is not necessary; the new CA 1 and CA 2 will list all members of the filing unit including the additional child.

Counties must ensure that all Systematic Alien Verification for Entitlements (SAVE) requirements in ACL 88-131 and ACIN 1-09-89 have been met.

Counties are not required by the Simon court order to request information currently available in the case file except as specified above or as necessary to determine eligibility.

### **Notice Requirements**

The County must notify the AU of its approval for Federal AFDC FG/U using a timely Notice of Change.

AUs which are determined to be ineligible for Federal AFDC FG or U shall be sent a notice of denial of Federal aid and a timely notice of discontinuance from the State-only Simon aid.

For those AUs determined to be eligible for time limited State-only AFDC-U, the same notice shall be used to deny Federal AFDC and approve State-only AFDC-U which may continue for up to 3 months.

Copies of the appropriate Notice of Action language in English are attached. Translations of the Notices will follow shortly.

### **Effective Date of Aid/Budgeting**

AUs determined to be eligible for Federal AFDC FG/U or time limited State-only AFDC-U will receive aid effective the first day of the month following discontinuance from Simon State-only aid. Regular beginning date of aid rules apply to cases which have been discontinued and later reapply for aid.

All Simon cases granted Federal AFDC must be budgeted prospectively during the first two months of Federal eligibility. The County is also to use prospective budgeting for Simon cases granted State-only AFDC-U following discontinuance.

### **Overpayments**

In accordance with the order, any benefits paid to Simon class members prior to the effective date of timely notice will not be considered as an overpayment. Payments made subsequent to the effective date of the notice such as aid paid pending a hearing will be subject to the usual overpayment regulations. A Federally eligible case that has been converted from State-only Simon to Federal AFDC FG/U should remain a Federal case, even if a State hearing has been requested and aid is continued at the former grant amount as Aid Paid Pending.

### **Food Stamps**

For Food Stamp (FS) purposes CWDs should be aware the FS allotment may change because of the new AFDC grant amount. Additionally, the CWD may need to change the FS household classification and realign the AFDC and FS certification periods. If you have any questions regarding the impact on FS please call AFDC and FS Policy Implementation Bureau at (916) 322-5330.

### **Fiscal Claiming Instructions**

#### **Assistance Claiming**

To claim Federal reimbursement for those Simon v. McMahon cases which have been found eligible for Federal AFDC in accordance with this ACL, the County must adhere to the following claiming instructions.

No retroactive conversion of these cases to the Federal AFDC Program or retroactive claiming for Federal reimbursement will be allowed. Effective with the prospective conversion of eligible cases to Federal AFDC-FG/U, those cases which had been aided on the State-only Simon Program, aid codes 32 (FG) or 33 (U) must be converted to aid codes 30 (Federal FG) or 35 (Federal U). The persons counts must also reflect a conversion from State-only to Federal status. These cases are to be claimed with all other Federal AFDC payments and carried forward to the Federal CA 800, Summary Report of Assistance Expenditures. If you have any questions regarding assistance claiming instructions, please call Stephanie Davis at (916) 323-0267 or Mary Helot at (916) 323-0282.

### Administrative Expense Claiming

Eligibility workers (EW) are to record time spent on determining eligibility of Simon cases on Line A1, Intake-AFDC FG/U on the Eligibility and Nonservice Time Study (DFA 43) during the normal time study period. The hours will be used to distribute EW salaries and benefits and attributable overhead through the Administrative Expense Claim in the usual manner. If you have any questions regarding the time study or administrative expense claiming, please call Janet Sandlin, Administrative Policy Section at (916) 323-0285.

### Request for Information

In order to more accurately measure the Simon population and its financial impact on grant and administrative savings, DSS requests that the Counties provide the following information by November 30, 1989:

- (1) How many cases are now required to include the child(ren)'s previously excluded income and/or property?
- (2) Of those cases, how many cases will be discontinued as a result of the inclusion of the previously excluded income and/or property in grant computation or eligibility determination?

Please return your County's responses to:

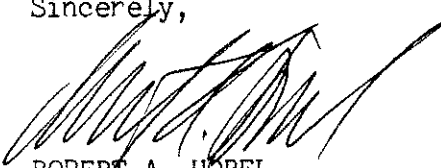
Department of Social Services  
Statistical Services MS 19-84  
744 P Street  
Sacramento, CA 95814

Attn: Levi St. Mary

If you have any questions regarding the information requested, please call Mr. Robert Pohutsky (916) 323-2401.

If you have any questions or need additional information regarding the general provisions of this ACL, please contact Mr. Vincent Toolan at (916) 324-2007.

Sincerely,



ROBERT A. HOREL  
Deputy Director

Attachments

COPY

1 PHILIP BERTENTHAL  
2 CONTRA COSTA LEGAL SERVICES  
3 FOUNDATION  
4 1017 MacDonald Avenue, P.O. Box 2289  
5 Richmond, California 94802  
6 Telephone: (415) 233-9954

7 JOEL R. REYNOLDS  
8 RICHARD A. ROTHSCHILD  
9 WESTERN CENTER ON LAW AND POVERTY  
10 3535 West Sixth Street  
11 Los Angeles, California 90020  
12 Telephone: (213) 487-7211

13 Attorneys for Plaintiffs

14 JOHN K. VAN DE KAMP, Attorney General  
15 of the State of California  
16 JOHN J. KLEE, JR.  
17 Deputy Attorney General  
18 350 McAllister St., Rm. 6000  
19 San Francisco, CA 94102  
20 Telephone: (415) 557-3611

21 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
22 FOR THE COUNTY OF CONTRA COSTA

23 LINDA SIMON, <u>et al.</u> ,	)	NO. 272468
	)	
24 Plaintiffs,	)	STIPULATION FOR
	)	DISMISSAL AND ORDER
25 vs.	)	
	)	
26 LINDA MCMAHON, <u>et al.</u> ,	)	
	)	
27 Defendants.	)	
	)	
28	)	

29 IT IS HEREBY STIPULATED by and between the parties to this  
30 action through their undesignated counsel:

31 I. RECITALS

32 1. Plaintiffs filed this action on May 16, 1985,

APR 21 1989  
M. CRAWLEY, ACTING COUNTY CLERK

B. DERRICK

1 challenging the constitutionality of California Welfare and  
2 Institutions Code §11008.14 and regulations promulgated  
3 thereunder. Plaintiffs alleged that said provisions violated  
4 the Equal Protection and Due Process Clauses of the California  
5 Constitution insofar as § 11008.14 required that the income of  
6 non-needy children be deemed available to other needy family  
7 members in determining eligibility of those family members for  
8 Aid to Families with Dependent Children ("AFDC"). The action  
9 was brought as a taxpayers action and sought statewide  
10 injunctive relief.

11       2. On October 17, 1985, the California Supreme Court  
12 entered an order staying the implementation of the challenged  
13 provisions. That order was supplanted by a stipulated  
14 preliminary injunction filed in this Court on December 19, 1985.  
15 Pursuant to the terms of the Supreme Court's order and the  
16 preliminary injunction, the challenged provisions have not been  
17 applied in making AFDC, eligibility and grant amount  
18 determinations statewide for the period beginning October 17,  
19 1985.

20       3. The parties to this action now desire to resolve this  
21 action without further litigation and, to that end, have agreed  
22 to the following terms in full and complete settlement of this  
23 action.

## 24                                   II. OPERATIVE PROVISIONS

25       1. The preliminary injunction is dissolved and the action  
26 is dismissed with prejudice.

27       2. Defendants will not recover or recoup as  
28 "overpayments" any benefits paid to any public assistance

1 recipient by virtue of compliance with the terms of the Supreme  
2 Court's order, temporary restraining order, or preliminary  
3 injunction in this case or, as to plaintiffs only,  
4 nonimplementation of the challenged provisions at any time from  
5 February 1, 1985 through October 17, 1985. Nor shall defendants  
6 recover or recoup as "overpayments" any benefits paid to any  
7 public assistance recipient from the date this action is  
8 dismissed to the date the challenged provisions (pursuant to a  
9 timely and adequate Notice of Action) result in an actual  
10 termination or reduction of benefits; provided, however, that  
11 this provision has no application to "overpayments" unrelated to  
12 the challenged provisions or "overpayments" that may arise as  
13 the result of receiving "aid paid pending" the "fair hearing"  
14 process.


15       3. This stipulation is made solely for the purpose of  
16 settling the causes of action alleged in the amended complaint  
17 in this case. No inferences should be drawn with respect to any  
18 other issues, and the parties' agreements with respect to  
19 "overpayments" shall not be cited or referred to as precedent in  
20 any other case except with respect to any and all matters  
21 pertaining or relating to the enforcement or implementation of  
22 paragraph 2 hereof. Nor shall anything in this stipulation be  
23 construed as an admission by plaintiffs that any of the benefits  
24 paid pursuant to the Supreme Court's order, the preliminary  
25 injunction or temporary restraining order herein, or  
26 nonimplementation of the challenged provisions were in fact  
27 "overpayments."

28       4. The Court shall retain jurisdiction over this action

1 to entertain an application by plaintiffs for reasonable  
2 attorneys' fees.

3  
4 DATED: 4/19/89

JOHN K. VAN DE KAMP  
Attorney General  
of the State of  
California

  
John J. Klee, Jr.  
Deputy Attorney General

Attorneys for Defendants


10 DATED:

CONTRA COSTA LEGAL  
SERVICES FOUNDATION

  
Philip Bertenthal

14 DATED: 4/11/89

WESTERN CENTER ON LAW  
AND POVERTY, INC.

  
Joel R. Reynolds

Attorneys for Plaintiffs

18  
19 SO ORDERED. APR 21 1989

20  
21 DOUGLAS E. SWAGER

22 JUDGE OF THE SUPERIOR COURT  
23  
24  
25  
26  
27  
28

State of California  
Department of Social Services

Manual Msg. No.: M41-440Gt  
Action : Approval  
Reason: State AFDC-U  
Title: Loss of Labor Force  
Connection

Auto ID No. :  
Flow Chart No. :  
Source : Simon Court  
Regulation Cite: 41-600, 41-440.4

Form No. : NA 200  
Effective Date : 06/05/89  
Revision Date :

MESSAGE: You told us before that you didn't want your child(ren) with income to be on aid. So, we gave you cash aid due to the Simon court order.

Now the Simon court order has changed. The County must count your child(ren) and your child(ren)'s income when your cash aid is figured.

Federal rules say to get Federal AFDC-U the principal earner (PE) must have a connection with the labor force. Read the rules about Federal AFDC-U on this notice.

At this time the PE in your case doesn't meet these rules.

If something changes contact your worker; you may be able to get Federal AFDC-U which has no time limit.

The County has approved your application for short-term cash aid. This cash aid will be State-Only AFDC-U.

A family can only get State-Only AFDC-U for three months in any 12 month period.

Your cash aid will begin \_\_\_\_\_. It will end \_\_\_\_\_.

This is the only notice you will get that your cash aid will stop.

When your State-Only AFDC-U ends you may be able to get General Assistance. You must apply for it at the County Welfare office.

Your cash aid amount is figured on this notice.

[ ] You will get another notice about your Medi-Cal.

INSTRUCTIONS: Use to grant State-Only AFDC-U to a recipient who doesn't have a connection to the labor force after the Simon redetermination of cash aid.

If the client opts to exclude the child from the AU, change the second sentence in the second paragraph to read: "The County must count your child(ren)'s income when your cash aid is figured."

Fill in the effective date of cash aid. Fill in the effective date of termination of cash aid. Provide the pertinent information about Medi-Cal or check the box and send a separate notice. Show the budget computation in the right hand column.

Use the information from the NA 273 as a continuation page to explain the denial of Federal AFDC-U.

State of California  
Department of Social Services

Manual Msg. No.: M42-207At  
Action : Disc  
Reason: Property  
Title: Property Exceeds  
the \$1,000 Limit  
Form No. : NA 210  
Effective Date : 06/05/89  
Revision Date :

Auto ID No. :  
Flow Chart No. :  
Source : Simon Court  
Regulation Cite: 42-207.1

MESSAGE: As of \_\_\_\_\_, The County is stopping your cash aid.

Here's why:

You told us before that you didn't want your child(ren) with property to be on aid. We gave you cash aid due to the Simon court order.

Now the Simon court order has changed. The County must count your child(ren) and your child(ren)'s property when your cash aid is figured.

You can't get cash aid if your family's countable property is more than \$1,000.

Here's how we figured your countable property.

Property	Countable Value
_____	\$ _____
_____	_____
_____	_____
_____	_____
Total	\$ _____

INSTRUCTIONS: Use to discontinue a client from State-Only Simon AFDC when the family's countable property exceeds \$1,000.

Fill in the effective date of discontinuance of cash aid.

If the client opts to exclude the child from the AU, change the second sentence in the second paragraph to read: "The County must count your child(ren)'s property when your cash aid is figured."

Show the total countable value of the property and specify which property is counted.

State of California  
Department of Social Services

Manual Msg. No.: M44-113Gt  
Action : Change  
Reason: Income  
Title: Change in Income

Auto ID No. :  
Flow Chart No. :  
Source : Simon Court  
Regulation Cite: 44-113, 44-100

Form No. : NA 200  
Effective Date : 06/05/89  
Revision Date :

MESSAGE: As of \_\_\_\_\_, The County is changing your cash aid from  
\$ \_\_\_\_\_ to \$ \_\_\_\_\_.

Here's why:

You told us before that you didn't want your child(ren) with income to  
be on aid. We gave you cash aid due to the Simon court order.

Now the Simon court order has changed. The County must count your  
child(ren) and your child(ren)'s income when your cash aid is figured.

When your family's income changes, your cash aid amount also changes.

Your new cash aid amount is figured on this notice.

INSTRUCTIONS: Use to change a client's cash aid amount when there is a  
change in the family's income and needs.

Fill in the effective date of change of cash aid. Fill in the old and  
new cash aid amount.

If the client opts to exclude the child from the AU, change the second  
sentence in the second paragraph to read: "The County must count your  
child(ren)'s income when your cash aid is figured."

Show the budget computation in the right hand column.

State of California  
Department of Social Services

Manual Msg. No.: M44-207Bt  
Action : Disc  
Reason: Income  
Title: 185% Rule

Auto ID No. :  
Flow Chart No. :  
Source : Simon Court  
Regulation Cite: 44-207.22

Form No. : NA 210  
Effective Date : 06/05/89  
Revision Date :

MESSAGE: As of \_\_\_\_\_, The County is stopping your cash aid.

Here's why:

You told us before that you didn't want your child(ren) with income to be on aid. We gave you cash aid due to the Simon court order.

Now the Simon court order has changed. The County must count your child(ren) and your child(ren)'s income when your cash aid is figured.

You can't get cash aid if your family's monthly gross income is more than 185 percent of the basic need standard set by the State plus any special needs.

Your family's needs and income are figured on this notice.

INSTRUCTIONS: Use to discontinue a client from State-Only Simon AFDC when the family's gross income exceeds 185% of MBSAC.

Fill in the effective date of discontinuance of cash aid.

If the client opts to exclude the child with income from the AU, change the second sentence in the second paragraph to: "The County must count your child(ren)'s income when your cash aid is figured."

Show the budget computation in the right hand column.

State of California  
Department of Social Services

Manual Msg. No.: M44-207Ct  
Action : Disc  
Reason: Income  
Title: Net Countable  
Income Ineligible  
Form No. : NA 210  
Effective Date : 06/05/89  
Revision Date :

Auto ID No. :  
Flow Chart No. :  
Source : Simon Court  
Regulation Cite: 44-207.3

MESSAGE: As of \_\_\_\_\_, The County is stopping your cash aid.

Here's why:

You told us before that you didn't want your child(ren) with income to be on aid. We gave you cash aid due to the Simon court order.

Now the Simon court order has changed. The County must count your child(ren) and your child(ren)'s income when your cash aid is figured.

You can't get cash aid if your family's countable income is more than the need standard set by the State plus any special needs.

Your family's needs and income are figured on this notice.

INSTRUCTIONS: Use to discontinue a client from State-Only Simon AFDC when the family's countable income exceeds MAP.

Fill in the effective date of discontinuance of cash aid.

If the client opts to exclude the child from the AU, change the second sentence in the second paragraph to read: "The County must count your child(ren)'s income when your cash aid is figured."

Show the budget computation in the right hand column.